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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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DEC 14 2011

COMMISSIONERS

GARY PIERCE - Chairman
BOB STUMP
SANDRA D. KENNEDY
PAUL NEWMAN
BRENDA BURNS

2011 DEC 14 A 11:50

AZ CORP COMMISSION
DOCKET CONTROL

DOCKETED BY

IN THE MATTER OF:

DOCKET NO. S-20757A-10-0373

RICHARD M. SCHMERMAN, individually and
d/b/a Diversified Financial and/or Diversified
Financial Planners, and Amy Schmerman, husband
and wife.

RESPONDENTS.

NINTH
PROCEDURAL ORDER

(Grants Motion to File Amended Notice)

BY THE COMMISSION:

On September 9, 2010, the Securities Division ("Division") of the Arizona Corporation Commission ("Commission") filed a Notice of Opportunity for Hearing ("Notice") against Richard M. Schmerman d/b/a Diversified Financial and/or Diversified Financial Planners ("Diversified") and Amy Schmerman, husband and wife (collectively "Respondents"), in which the Division alleged multiple violations of the Arizona Securities Act ("Act") and the Investment Management Act ("IM Act") in connection with Respondent Richard A. Schmerman's practices in business and securities matters which allegedly involved mishandling of client funds and misrepresentation.

The Respondents were duly served with copies of the Notice.

On September 20, 2010, a request for hearing was filed by the Respondents.

On September 22, 2010, by Procedural Order, a pre-hearing conference was scheduled on October 21, 2010.

On October 21, 2010, at the pre-hearing conference, the Division and Respondents appeared through counsel. The parties are discussing a possible resolution of the issues raised by the Notice, but have agreed in the interim that a status conference be scheduled in approximately 60 days.

On October 22, 2010, by Procedural Order, a status conference was scheduled on December 16, 2010.

On December 16, 2010, the Division and Respondents appeared through counsel at the status

1 conference. The parties were continuing to discuss a resolution of the proceeding and in the interim,
2 the Division requested that another status conference be scheduled in approximately 60 days.

3 On December 16, 2010, by Procedural Order, a status conference was scheduled on February
4 23, 2011.

5 On February 22, 2011, the Division and Respondents filed a Joint Stipulation to Continue the
6 status conference for at least 60 days in order that the parties could continue to review matters and
7 attempt to resolve the issues raised by the Notice.

8 On February 23, 2011, by Procedural Order, the status conference was continued from
9 February 23, 2011, to April 25, 2011.

10 On April 22, 2011, the Division and Respondents filed another Joint Stipulation to Continue
11 the status conference for at least 60 days to allow the parties to continue to work towards a settlement
12 of the issues raised by the Notice.

13 On April 25, 2011, by Procedural Order, the status conference was continued from April 25,
14 2011, to July 7, 2011.

15 On July 5, 2011, the Division and Respondents filed another Joint Stipulation to Continue the
16 status conference for at least 60 days to allow the parties to continue to work towards a settlement of
17 the issues raised by the Notice. Subsequently, by Procedural Order, the status conference was
18 continued from July 7, 2011, to September 8, 2011.

19 On September 7, 2011, the Division and Respondents filed another Joint Stipulation to
20 Continue the status conference for sixty days or more to allow the parties to review additional
21 documentation and to discuss a possible resolution of the proceeding. Subsequently, by Procedural
22 Order, the status conference was continued to November 17, 2011.

23 On November 17, 2011, the Division and Respondents appeared through counsel. The
24 Division indicated that it was preparing to file a Motion to Amend the Notice adding additional
25 allegations against Respondents. The Division and Respondents were continuing to discuss a
26 possible resolution of the proceeding, but in the interim counsel agreed that an additional status
27 conference be scheduled in March 2012.

28 On November 21, 2011, by Procedural Order, a status conference was scheduled as agreed on

1 March 12, 2012.

2 On December 6, 2011, the Division filed a Motion to File Amended Notice ("Motion").

3 On December 12, 2011, the Division and Respondents filed a Joint Stipulation regarding the
4 Division's Motion. Respondents have no objections to the filing of the Amended Notice and the
5 parties stipulated that Respondents' initial request for hearing filed September 20, 2010, would be
6 applicable as to the Amended Notice. Additionally, the parties stipulated that Respondents would
7 have at least 30 days to file an Answer from the date of an Order which authorizes the filing of the
8 Amended Notice.

9 Accordingly, the Division should be authorized to file the Amended Notice as stipulated by
10 the parties.

11 IT IS THEREFORE ORDERED that the Division is hereby authorized to file the Amended
12 Notice.

13 IT IS FURTHER ORDERED that Respondents are hereby relieved of filing an additional
14 request for hearing, and shall have 30 days from the effective date of this Procedural Order to file an
15 Amended Answer.

16 IT IS FURTHER ORDERED that a **status conference shall be held on March 12, 2012, at**
17 **10:00 a.m.**, at the Commission's offices, 1200 West Washington Street, Room 100, Phoenix,
18 Arizona, as previously ordered.

19 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized
20 Communications) applies to this proceeding as the matter is now set for public hearing.


21 IT IS FURTHER ORDERED that withdrawal or representation must be made in compliance
22 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the
23 Rules of the Arizona Supreme Court). Representation before the Commission includes appearances
24 at all hearings and procedural conferences, as well as all Open Meetings for which the matter is
25 scheduled for discussion, unless counsel has previously been granted permission to withdraw by the
26 Administrative Law Judge or the Commission.

27 IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules
28 of the Arizona Supreme Court and A.R.S. § 40-243 with respect to practice of law and admission *pro*

1 *hac vice.*

2 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive
3 any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

4 DATED this 14TH day of December, 2011.

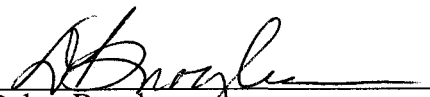
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8 
9 MARC E. STERN
ADMINISTRATIVE LAW JUDGE

10 Copies of the foregoing mailed/delivered
11 this 14TH day of December, 2011 to:

12 Alan Baskin
13 BADE & BASKIN, PLC
14 80 East Rio Salado Parkway, Suite 511
15 Tempe, AZ 85281
16 Attorney for Respondents

17 Matt Neubert, Director
18 Securities Division
19 ARIZONA CORPORATION COMMISSION
20 1300 West Washington Street
21 Phoenix, AZ 85007

22 ARIZONA REPORTING SERVICE, INC.
23 2200 North Central Avenue, Suite 502
24 Phoenix, AZ 85004

25 By: 
26 Debra Broyles
27 Secretary to Marc E. Stern
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